

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 TRSE-00 CU-02 DHA-02 IO-13 /075 W
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R 251446Z MAR 77
FM AMEMBASSY BERLIN
TO SECSTATE WASHDC 4391
INFO AMEMBASSY BELGRADE
AMEMBASSY BONN
AMEMBASSY BUCHAREST
AMEMBASSY BUDAPEST
AMEMBASSY MOSCOW
AMEMBASSY PRAGUE
AMEMBASSY SOFIA
AMEMBASSY WARSAW
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L BERLIN 5604
E.O.11652: GDS
TAGS: PFOR, CSCE, CGEN, GE, US
SUBJECT: GDR HUMANITARIAN CASES: BINATIONAL MARRIAGE CASES:
CERTIFICATE OF CAPACITY TO MARRY.

REF: (A) 7 FAM 814.3-1, 821.2-2, 832, 834.6-4, (B) BERLIN
5544 (NOTAL)

1. ON MARCH 24, DURING A MEETING WITH JAN KOLASA OF THE
MFA'S CONSULAR DEPARTMENT, EMBOFFS HAD THE OPPORTUNITY TO
DISCUSS AGAIN THE PROBLEM FACED BY AMERICAN PRINCIPALS IN GDR
BINATIONAL MARRIAGES IN PRODUCING PROPER DOCUMENTATION PROVING
THAT THEY WERE LEGALLY FREE TO MARRY THEIR GDR FIANCE(S)S.
THIS HAS BEEN DISCUSSED ON AND OFF BY EMBASSY OFFICERS WITH
CONSULAR DEPARTMENT OFFICIALS OVER THE LAST YEAR.

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2. AS BACKGROUND, GDR LAW REQUIRES THAT FOREIGNERS
SEEKING TO MARRY GDR CITIZENS MUST PRODUCE A CERTIFICATE
OF CAPACITY TO MARRY FROM AN AGENCY OF THEIR OWN
GOVERNMENT AS PART OF THE DOCUMENTATION SUPPORTING THE
GDR (FINACE(E)'S APPLICATION TO THE LOCAL CITY COUNCIL
FOR SUCH PERMISSION. SUCH DOCUMENTATION IS NORMALLY
PRODUCED BY MOSTWESTERN EMBASSIES IN BERLIN; HOWEVER,

ISSUANCE BY US - OR FOR THAT MATTER BY A USG AGENCY IMPOSSIBLE. IN SOME INSTANCES, THE LOCAL CITY COUNCIL HAS EITHER OVERLOOKED THE REQUIREMENT OF THE AMERICAN PRINCIPAL HAS TAKEN THE LONG AND COMPLICATED PATH OF EXECUTING AN AFFIDAVIT BEFORE A NOTARY PUBLIC IN THE US, WHICH IS THEN SUCCESSIVELY AUTHENTICATED BY THE SECRETARY OF STATE OF THE INDIVIDUAL STATE AND THEN THE APPROPRIATE OFFICER OF THE DEPARTMENT OF STATE. CONSULAR OFFICERS HERE ARE THEN ABLE TO FOLLOW THE PROCEDURE DESCRIBED IN 7 FAM 834.6-4.

3. EMBOFFS REMINDED KOLASA AGAIN OF THIS PROBLEM AND REQUESTED MENTION OF A THIRD SOLUTION, E.G. TAKING OF AN AFFIDAVIT UNDER OATH BY A CONSULAR OFFICER OF THIS EMBASSY, AS A POSSIBLE WAY OUT OF THESE IMPASSES IN BINATIONAL MARRIAGE CASES. THEY ALSO REFERRED TO THE REQUIREMENT UNDER 7 FAM 821-2-2 TO REFUSE TO PERFORM NOTARIAL ACTS IN VIOLATION OF US LAW. THEY POINT OUT THAT BIGAMY IS A CRIME IN THE US; KOLASA BROKE IN TO SAY THAT THE SAME IS THE CASE IN THE GDR.

4. KOLASA SAID THAT THIS PROPOSAL WAS AN INTERESTING POSSIBILITY TO OVERCOME THIS PROBLEM. HE WOULD TAKE UP THE PROPOSAL WITH THE RESPONSIBLE AUTHORITIES AND GET BACK TO THE EMBASSY AS SOON AS POSSIBLE.

5. COMMENT: ALTHOUGH WE HAVE MENTIONED THE CONSULAR AFFIDAVIT SOLUTION TO THE CONSULAR DEPARTMENT SEVERAL TIMES (AND TO KOLASA PERSONALLY AT LEAST ONCE), THIS IS CONFIDENTIAL

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THE FIRST TIME WE HAVE RECEIVED SUCH AN INTERESTED REACTION. THIS MAY BE BECAUSE KOLASA, WHO HAS THE REPUTATION AMONG FOREIGN CONSULS OF BEING SOMEWHAT NEGATIVE AND RATHER HAZY, LET THE MATTER PREVIOUSLY SLIDE. AT ANY RATE, WE BELIEVE THIS COULD LEAD TO A USEFUL SOLUTION TO A NAGGING DOCUMENTATION PROBLEM.

6. ONE TECHNICAL MATTER WHICH WOULD HAVE TO BE CLARIFIED IS IF, IN LIGHT OF THE GDR PROHIBITION AGAINST FOREIGN CONSULS PERFORMING NOTARIALS WITHOUT SPECIFIC AUTHORIZATION IN A CONSULAR CONVENTION, WE WOULD BE ABLE TO ADMINISTER OATHS TO SUCH AFFIDAVITS EVEN IF WE WERE TOLD BY THE MFA THAT THEY WOULD BE ACCEPTED IN LIEU OF CERTIFICATES OF CAPACITY TO MARRY. WE EXPECT THAT THIS MATTER COULD ARISE IN THE NEAR FUTURE AND WOULD APPRECIATE THE DEPARTMENT'S VIEWS AS TO WHETHER IT WOULD CONSIDER A GDR EXCEPTION, PERMITTING THIS KIND OF US NOTARIAL ACTION, TO HAVE UNDESIRABLE CONSEQUENCES IN THE PROCESS OF NEGOTIATING A CONSULAR CON-

VENTION WITH THE EAST GERMANS.

7. FOR EE INFO ADDRESSEES: WE WOULD BE INTERESTED IN
LEARNING HOW YOU HAVE DEALT WITH THE MATTER OF AMERICAN
CITIZENS BEING REQUIRED TO PRODUCE EVIDENCE OF FREEDOM
TO MARRY FOR AUTHORITIES IN YOUR RESPECTIVE RECEIVING
STATES. POLANSKY

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, MARRIAGES, EXIT VISAS
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977BERLIN05604
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770104-0449
Format: TEL
From: BERLIN
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t19770324/aaaaatww.tel
Line Count: 123
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 569461b2-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 24-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3001718
Secure: OPEN
Status: NATIVE
Subject: GDR HUMANITARIAN CASES: BINATIONAL MARRIAGE CASES: CERTIFICATE OF CAPACITY TO MARRY.
TAGS: PFOR, CGEN, GC, US, CSCE
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/569461b2-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009